

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA

v.

**HEARING re: WAIVER OF RIGHT TO JURY
TRIAL via Zoom Videoconference**

XENGXAI YANG

Case No. 19-CR-67

HONORABLE WILLIAM C. GRIESBACH presiding
Proceeding Held: October 16, 2020
Deputy Clerk: Lori

Time Called:	<u>11:02 am</u>
Time Concluded:	<u>11:17 am</u>
Tape:	<u>101620</u>

Appearances:

UNITED STATES OF AMERICA by:	Andrew J. Maier
XENGXAI YANG via Zoom Videoconference and by:	Thomas E. Phillip
US PROBATION OFFICE by:	Brian Koehler
INTERPRETER: None	<input type="checkbox"/> Interpreter Sworn

Mr. Phillip informs the Court that both he and his client wish to proceed via videoconference with the hearing. Defendant states on the record that he agrees to appear by video today.

The Court makes findings on the record to hold today's hearing via Zoom videoconference.

The Court addresses the [38] Waiver form filed.

The Court and parties address the burden at trial.

Mr. Phillip addresses that defendant must prove the existence of mental disease or defect by clear and convincing evidence under 18 U.S.C. § 17.

The Court questions defendant.

The government waives right to jury trial.

The Court accepts the waiver of right to a jury trial as given knowingly and voluntary.

Mr. Phillip informs the Court that one of the witnesses (Dr. Bernie) has concerns about appearing for in person hearing due risk factors for COVID. The witness also has a conflict with the date due to it being on a Tuesday which is a day for regularly scheduled appointments. The witness would prefer to appear by telephone for the testimony as he has poor internet service at his residence. Mr. Phillip will be meeting with his client in person on Monday to discuss this. Mr. Phillip will notify the Court and the government of the outcome of the discussions.

The Court would prefer video appearance over telephone.

The Court instructs the government to convey to the witness the precautions in place for safety due to COVID.

The Court notes that rescheduling for a different day of the week if necessary, would not be an issue.

The matter currently remains on the calendar for Court Trial on 10/27/2020.